

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 12, 2001**

**IN RE:**

**SHOW CAUSE PROCEEDING  
AGAINST TALK.COM, INC.**

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**DOCKET NO.  
01-00216**

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**ORDER EXPANDING SHOW CAUSE PROCEEDING TO  
INCLUDE THE INVESTIGATION OF "CRAMMING" COMPLAINTS  
PURSUANT TO TENN. CODE ANN. § 65-4-125(b) AGAINST TALK.COM, INC.**

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This matter came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference held on July 24, 2001, for consideration of expanding this docket for the purpose of further investigation by the Authority to determine whether grounds exist for expanding the scope of this show cause proceeding against Talk.com, Inc. ("Talk.com") and its affiliates to include allegations of failure to comply with Tenn. Code Ann. § 65-4-125(b) and Tenn. Comp. R. & Reg. 1220-4-2-.58.<sup>1</sup>

**Background**

At a regularly scheduled Authority Conference held on March 6, 2001, the Directors, acting pursuant to Tenn. Code Ann. §§ 65-2-106 and 65-4-125(e), voted unanimously to open a docket for the purpose of further investigation and the initiation of show cause proceedings against Talk.com, Inc. for failure to comply with Tenn. Code Ann. §§ 65-4-125(a), 65-4-404 and

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<sup>1</sup> Talk.com is affiliated with or also known as the following: Access One, Access One Communications, The Phone Company, The Other Phone Company, AOL Long Distance and Tel-save. On April 9, 2001 Talk.com issued a press release stating that it had changed its name to Talk America Holdings, Inc., marketing under the TalkAmerica® brand. On May 7, 2001, Talk.com filed a request for name change in the TRA. At the regularly scheduled Authority Conference on June 12, 2001, the Directors unanimously voted to defer a ruling on that request.

Tenn. Rules & Regs. 1220-4-2-.56 and 1220-4-11-.07.<sup>2</sup> The Directors reached this decision after the Consumer Services Division reported that one hundred and nineteen (119) consumer complaints against Talk.com or its affiliates had been filed with the Authority between December 1, 2000 to February 23, 2001. Most of these complaints alleged that Talk.com or its affiliates had changed the consumer's local and/or long distance service without permission in violation of Tenn. Code Ann. § 65-4-125(a) or that Talk.com or its affiliates either made or caused to be made telephone solicitations to residential subscribers who gave proper notice to the Authority of their objection to receiving telephone solicitations in violation of Tenn. Code Ann. § 65-4-404. Thus, scope of this docket was limited to the further investigation and the initiation of show cause proceedings against Talk.com and its affiliates for failure to comply with Tenn. Code Ann. §§ 65-4-125(a) and 65-4-404 and their supporting regulations, Tenn. Comp. R. & Reg. 1220-4-2-.56 and 1220-4-11.07.

Since TRA Docket No. 01-00216 was opened on March 6, 2001, the Consumer Services Division has received numerous additional consumer complaints against Talk.com and its affiliates. These complaints include forty-six (46) complaints alleging that Talk.com engaged in questionable billing practices in violation of Tenn. Code Ann. § 65-4-125(b) and Tenn. Comp. R. & Reg. 1220-4-2-.58 which prohibit telecommunications service providers from billing and collecting from any subscriber charges for services to which the provider knew or reasonably should have known the subscriber had not subscribed, or for any amount in excess of that specified in the tariff or contract governing the charges for such services.

At the July 24, 2001 Authority Conference, the Directors, acting pursuant to Tenn. Code Ann. § 65-2-106 and 65-4-125(e), voted unanimously to permit further investigation in TRA

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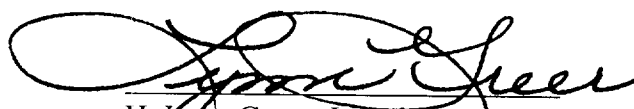
<sup>2</sup> See *Show Cause Proceeding Against Talk.Com, Inc.*, TRA Docket No. 01-00216, *Order Opening Docket to Initiate Show Cause Proceeding Against Talk.Com, Inc.* (issued March 20, 2001).

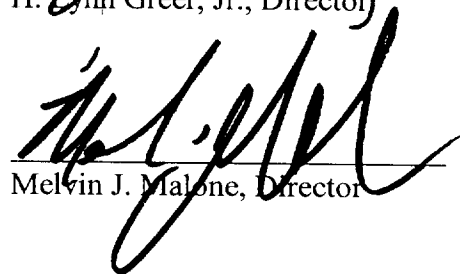
Docket 01-00216 to determine whether grounds exist for the expanding the scope of this show cause proceeding against Talk.com and its affiliates to include allegations of violation of Tenn. Code Ann. § 65-4-125(b) and Tenn. Rules & Regs. 1220-4-2-.58.

**IT IS THEREFORE ORDERED THAT:**

The scope of TRA Docket No. 01-00216 is expanded for the purpose of investigating allegations of additional violations on the part of Talk.com or its affiliates under Tenn. Code Ann. § 65-4-125(b) and Tenn. Rules & Regs. 1220-4-2-.58 and incorporating such violations into the show cause proceeding in this docket.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary